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21
22 **UNITED STATES DISTRICT COURT**
23
24 **DISTRICT OF NEVADA**
25

26 JOSEPH TODD DUNLAP, an individual;
27 MONA DUNLAP, an individual;

28 Plaintiffs,

vs.

DOMINIC AMATO, an individual; WHITE
RIVER MARINE GROUP, a Missouri business
entity; TRACKER MARINE GROUP, a
Missouri business entity; TRACKER MARINE
LLC, a Missouri limited liability company;
TRACKER MARINE RETAIL, LLC, a
Delaware limited liability company; DOES I
through X, inclusive; and ROE
CORPORATIONS I through X, inclusive; and
ROE LIMITED LIABILITY COMPANIES I
through X, inclusive,

Defendants.

Case No.: 2:19-cv-00189-JCM-BNW

**STIPULATION AND [PROPOSED]
ORDER TO CONTINUE SCHEDULING
ORDER DATES (ECF No. 44)**

(Fourth Request)

DOMINIC AMATO
Cross-Complainant,

vs.

WHITE RIVER MARINE GROUP,
TRACKER MARINE GROUP, TRACKER
MARINE, LLC, AND TRACKER MARINE
RETAIL, LLC,
Cross-Defendants.

Plaintiffs Joseph Todd Dunlap and Mona Dunlap ("Plaintiffs"), Defendant/Counter-
Claimant Dominic Amato ("Amato"), and Defendants/Cross-Defendants White River Marine
Group, Tracker Marine Group, Tracker Marine, LLC, and Tracker Marine Retail, LLC
(collectively, "Tracker Defendants"), by and through their respective counsel of record, hereby
stipulate to continue all deadlines within the Scheduling Order entered by this Court on
September 24, 2019 (ECF No. 44) by sixty (60) days pursuant to LR 26-4.

This Stipulation is submitted more than twenty-one (21) days of the expiration of the first
subject deadline (i.e., the expert disclosure deadline, December 4, 2019) and is supported by a
showing of good cause pursuant to LR 26-4. Good cause exists for the requested extension
because the parties have been diligent in performing discovery; however, the parties need
additional time for discovery as Plaintiff is still treating for his injuries, and to participate in a
recently scheduled mediation as detailed below.

The parties' expert reports are currently due on December 4, 2019. The parties will not
be able to prepare expert reports based prior to this deadline. Further fact discovery of parties
and nonparties is required before the deadline. Plaintiff Joseph Todd Dunlap moved to Crestline,
CA from his former residence in Oregon and began treating with his current pain management
specialist for the injuries sustained in the boating accident at issue in this case. Mr. Dunlap is
currently undergoing nonsurgical treatments, including spinal injections. He requires additional
time to undergo these nonsurgical treatments to determine whether he is a candidate for fusion or
other surgical procedures. It is premature for initial disclosures given that the final treatment
plan remains to be determined. Counsel for plaintiffs has informed the parties that on November

1 7, 2019, Plaintiff underwent a diagnostic and therapeutic bilateral lumbar facet joint injection
2 from L4-L5, and L5-S1. His next medical appointment is November 22, 2019, at which time his
3 treating physician will evaluate the need for selective right lumbar epidural injections L2-L3, L3-
4 L4. After an evaluation of that procedure the treating physicians will be in a better position to
5 evaluate whether spinal fusion or other surgical intervention is required. Plaintiff's damages will
6 not be sufficiently ascertained until after it is known whether that procedure is required and the
7 effectiveness of the spinal injections in October and November. Before that the experts will not
8 be in a position to prepare their expert reports.

9 Moreover, the parties previously agreed to mediation in Los Angeles, close to Plaintiff's
10 current residence, and needed time to schedule and complete the mediation. It took
11 approximately 45 days to select a mediator and get it scheduled due to unexpected difficulty in
12 locating a reputable mediator with availability before the end of the year. Mediation is currently
13 scheduled for December 17, 2019, with JAMS mediator Hon. Marc Marmaro (Ret.). The parties
14 and their counsel are located in various jurisdictions across the country and even with all parties
15 working diligently and in good faith, it took a long time to find a mediator acceptable to all
16 parties and a date when the parties and counsel could all be present. Furthermore, the results of
17 Mr. Dunlap's November 22, 2019, medical evaluation will be known in advance of mediation.

18 **1. Discovery That Has Been Completed**

19 The parties have completed the following discovery:

- 20 • Exchange of initial disclosures and supplemental disclosures;
- 21 • Interrogatories have been served on a number of the parties, and have been responded
22 to;
- 23 • Requests for production have been served on a number of the parties, and have been
24 responded to;
- 25 • The parties took a Defendants' Medical Examination for Plaintiff Todd Dunlap and
26 produced the report to Plaintiffs;
- 27 • The parties deposed Plaintiff Todd Dunlap;
- 28

1 • Nonparty subpoenas have been served;
2 • The parties examined Defendant Amato's vessel that is the subject of this action; and,
3 • Plaintiffs have served the Tracker Defendants with written discovery following the
4 vessel inspection with the experts. A protective order has been negotiated and the Tracker
5 Defendants are now scheduled to produce documents.

6 **2. Discovery That Remains to Be Completed**

7 The following discovery by the parties remains to be completed:

- 8 • Plaintiff Mona Dunlap's deposition;
9 • Defendant Amato's deposition;
10 • Plaintiffs will take the depositions of the persons identified in Amato's Initial
11 Disclosure, including Cassandra Amato, Billy Egan, the FRCP 30(b)(6) of WON
12 Bass Tournament;
13 • Defendant Amato and the Tracker Defendants may also take the deposition of Billy
14 Egan, the WON Bass Tournament organizer;
15 • FRCP 30(b)(6) depositions of the Tracker Defendants;
16 • Subpoena Plaintiff's medical records for recently disclosed treatment in California;
17 • All parties will produce expert reports and/or rebuttal expert reports; and,
18 • All parties will depose all parties' experts.

19 **3. Reasons Why Remaining Discovery Was Not Completed**

20 Plaintiff is still treating for the injuries suffered in the accident giving rise to this lawsuit.

21 **1. Proposed Scheduled for Completing Discovery**

22 The parties jointly propose to the Court the following discovery plan:

23 **Discovery Cut-Off Date**

24 The amended discovery cut-off date is **April 6, 2020**.

25 **Fed. R. Civ. P. 26(a)(2) Disclosure (Experts)**

Disclosures identifying experts and initial expert reports shall be made by **February 3, 2020**. This is 60 days before the discovery cut-off date. Rebuttal expert disclosures shall be made by **March 4, 2020** which is 30 days after the initial disclosure of experts.

Dispositive Motions

The parties shall have until **May 6, 2020** to file dispositive motions. This is 30 days after the close of discovery.

Pretrial Order

The Joint Pretrial Order shall be filed no later than **June 1, 2020**, which is thirty (30) days after the date set for the filing of dispositive motions. In the event dispositive motions are filed, the date for filing the Joint Pretrial Order shall be suspended until thirty (30) days after decision on the dispositive motions or by further order of the Court.

Date: November 13, 2019

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Date: November 13, 2019

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1 Date: November 13, 2019

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and Tracker Marine Retail, LLP

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15 **IT IS SO ORDERED**

16 **DATED: November 15, 2019**

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20 **BRENDA WEKSLER**
21 **UNITED STATES MAGISTRATE JUDGE**
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